

# Energy: rules for the internal market in electricity. 'Electricity Directive'

2001/0077(COD) - 15/11/2005

The Commission presented its 2005 progress report on creating the internal gas and electricity market. The main conclusion of this report is that, whilst the initial opening period of energy markets has largely been a success to date, with, for example, electricity prices now being lower in real terms than in 1997 notwithstanding recent price rises for oil, gas and coal, more needs to be done to ensure that industry and citizens receive the full benefits flowing from market opening. This assessment is shared by energy regulators and most interested parties consulted during preparation of this report.

The most important persisting shortcoming is the lack of integration between national markets. Key indicators in this respect are the absence of price convergence across the EU and the low level of cross-border trade. This is generally due to the existence of barriers to entry, inadequate use of existing infrastructure and - in the case of electricity – insufficient interconnection between many Member States, leading to congestion. Moreover, many national markets display a high degree of concentration of the industry, impeding the development of effective competition. The gas market continues to suffer from a lack of liquidity of both gas and transport capacity. In this context, the effects of long-term gas contracts will have to be taken into account, both in terms of competition and the fact that such contracts may be necessary to underpin the financing of major new gas infrastructure. Another indicator of the lack of real competition is that switching by customers remains limited in most Member States and that choosing a new supplier from another Member State remains the exception.

The most important cause of this is the failure of Member States to implement the second electricity Directives on time or with sufficient determination. A large number of Member States were up to a year late in implementing the Directives, others still have not done so, and many have taken a rather “minimalist” approach in implementing the Directives. This approach needs to be re-considered. The Commission opened infringement procedures against Member States for failure to implement the Directives and, in June 2005, took six Member States to the European Court of Justice : Spain (electricity and gas); Luxembourg (electricity and gas); Greece (electricity); Estonia (gas); Portugal (electricity) and Ireland (gas).

This Report shows that in economic terms, with very few exceptions, electricity and gas markets in the EU remain national in economic scope. Sufficient cross-border competition has not yet developed to provide a fully effective constraining influence on the economic power of companies in each national market. This issue needs to be addressed with determination, by the Commission, Member States, Regulators and Industry. The main immediate action that is necessary is the full and complete and effective implementation of the second Gas and Electricity Directives. It is therefore too early to decide whether additional legislative measures at Community level are necessary, such as those suggested by some respondents to the Commission’s enquiries when preparing this report; for example additional unbundling or further powers to Regulators. It is first necessary to see the results of the implementation of the Second Directives in practice. The Commission will therefore, in addition to following-up closely the formal legal compliance with the Directives, carry-out detailed country-by-country reviews of the effectiveness in practice of legislative and regulatory measures, including specific additional national measures. This will lead to a further Report by the end of 2006 and, if necessary, proposals to redress any remaining requirements in 2007.